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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,202	12/01/2003	Thomas Maierholzner	22751	9821
535 7590 06/01/2007 K.F. ROSS P.C. 5683 RIVERDALE AVENUE SUITE 203 BOX 900 BRONX, NY 10471-0900			EXAMINER LARSON, JUSTIN MATTHEW	
			ART UNIT 3782	PAPER NUMBER
			MAIL DATE 06/01/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/725,202

Applicant(s)

MAIERHOLZNER, THOMAS

Examiner

Justin M. Larson

Art Unit

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 18-21, 23-28 and 31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-21, 23, 25-28 and 31 is/are rejected.
- 7) ☒ Claim(s) 24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Applicant's amendment after final, submitted on 5/16/07, has been entered.

Prosecution has been reopened as this Office Action contains new grounds of rejection for previously indicated allowable subject matter, thereby making this action NON-FINAL.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 18-21, 26-28, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda et al. (US 4,848,627 A) in view of Fromm (US 3,311,276 A), and further in view of Hopkins (US 4,770,712 A) and Hopkins et al. (US 4,040,140 A):

Regarding claims 18 and 19, Maeda et al. disclose a wall in a motor vehicle, the wall formed with a recess (48), and latch means (54) for releasably closing the recess. Maeda et al. fail to disclose the claimed hand tool within the recess. Fromm, however, teaches that it is known to store various objects such as an ice scraper (col. 1 lines 21-25) within a recess like that disclosed by Maeda et al. Hopkins discloses an ice scraper formed with a pair of similarly shaped secured-together elements (101,102) and including a blade (3) fastened between and projecting at an end from between the elements. It would have been obvious to one having ordinary skill in the art at the time the invention was made to store an ice scraper like that of Hopkins in the recess (48) of

Art Unit: 3782

Maeda et al., as taught by Fromm, so that a vehicle operator would have convenient access to the ice scraper in a time of need. The modified Maeda et al. combination still fails to include the ice scraper having a through-going hole formed therein. Hopkins et al, however, disclose an ice scraper having a through-going hole formed therein so that the ice scrape can be stored or supported via the hole. It would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the Maeda et al. combination by including a through-going hole in the ice scraper, as taught by Hopkins et al., so that a user could easily store or support the ice scraper when not in use in their vehicle, perhaps in the summer time.

The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over the modified Maeda et al. combination which is capable of being used in the intended manner, i.e., the hand tool being grasped through the hole and freed from the recess. There is no structure in the modified Maeda et al. combination that would prohibit such functional intended use (see MPEP 2111). Examiner also notes that the latch means (54) as taught by Maeda et al. would releasably secure the ice scraper within the recess.

Regarding claim 20, the wall of the modified Maeda et al. combination is formed in a center console of a vehicle.

Regarding claim 26, the ice scraper of the modified Maeda et al. combination is provided with multiple hard edges, including the blade and the sides of the handle, suitable for use as a scraper.

Art Unit: 3782

Regarding claim 27, the ice scraper of the modified Maeda et al. combination is elongated and has long sides formed with indentations or cutouts (Figure 2, Hopkins) facilitation gripping of the tool.

Regarding claim 28, the ice scraper of the modified Maeda et al. combination is formed with a seat (openings surrounding 119 of Hopkins) shaped to releasably retain a coin.

Regarding claim 31, the modified Maeda et al. combination further comprises a light source (6, Hopkins) fixed on the ice scraper and a battery (108,109, Hopkins) between the elements connectable to the source.

Regarding claim 21, the modified Maeda et al. combination as set forth above includes the claimed features except for the latch means including a magnet. Maeda et al., however, disclose a different center console (Figures 6,7) where a latch means (28/30) includes a magnet to releasably close a recess (14). It would have been obvious to one having ordinary skill in the art at the time the invention was made to store the ice scraper of Hopkins as modified by Hopkins et al. in a magnetically-latched recess like that taught by Maeda et al., as motivated by Fromm, so that a vehicle operator would have convenient access to the ice scraper in a time of need.

4. Claims 18-21, 23, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda et al. (US 4,848,627 A) in view of Fromm (US 3,311,276 A), and further in view of Paschetto (US 5,099,540 A) and Hopkins (US 4,770,712 A).

Regarding claims 18 and 19, Maeda et al. disclose a wall in a motor vehicle, the wall formed with a recess (48), and latch means (54) for releasably closing the recess.

Art Unit: 3782

Maeda et al. fail to disclose the claimed hand tool within the recess. Fromm, however, teaches that it is known to store various objects such as an ice scraper (col. 1 lines 21-25) within a recess like that disclosed by Maeda et al. Paschetto discloses an ice scraper formed with through-going hole by which a user can grasp the ice scraper. It would have been obvious to one having ordinary skill in the art at the time the invention was made to store an ice scraper like that of Paschetto in the recess (48) of Maeda et al., as taught by Fromm, so that a vehicle operator would have convenient access to the ice scraper in a time of need. The modified Maeda et al. combination still fails to include the ice scraper being made from two similarly shaped secured-together elements including a blade fastened between the elements, as the ice scraper of Paschetto is made from one unitary piece of material and includes no blades. Hopkins et al, however, disclose an ice scraper made from two similarly shaped secured-together elements (101,102) including a blade (3) fastened between the elements. It would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the Maeda et al. combination by forming the ice scraper of Paschetto from two similarly shaped secured-together pieces including a blade projecting from all ends between the elements, as taught by Hopkins, since such an ice scraper construction is already known in the art and the blades would provide better scraping edges than the body edges of the original Paschetto device.

Examiner also notes that the latch means (54) as taught by Maeda et al. would releasably secure the ice scraper within the recess.

Regarding claim 20, the wall of the modified Maeda et al. combination is formed in a center console of a vehicle.

Regarding claims 23 and 25, Examiner notes that standard beverage cans come in many shapes and sizes depending on the fluid-oz. content of the can. There are standard 12oz. cans and cans larger and smaller than the 12oz. can. Examiner is of the position that hole shown by Paschetto is at least as large as if not larger than a can holding, say, 6oz. of fluid. To the degree that this position can be argued, Examiner is also of the position that that it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the hole as disclosed by Paschetto larger, so that a user with larger hands would be able to easily grasp the ice scraper, and since it has been held that it is within the level of ordinary skill in the art to merely change the size of a component.

Regarding claim 26, the ice scraper of the modified Maeda et al. combination is provided with multiple hard edges in the form of the blades on all sides of the scraper.

Regarding claim 21, the modified Maeda et al. combination as set forth above includes the claimed features except for the latch means including a magnet. Maeda et al., however, disclose a different center console (Figures 6,7) where a latch means (28/30) includes a magnet to releasably close a recess (14). It would have been obvious to one having ordinary skill in the art at the time the invention was made to store the ice scraper of Paschetto as modified by Hopkins in a magnetically-latched recess like that taught by Maeda et al., as motivated by Fromm, so that a vehicle operator would have convenient access to the ice scraper in a time of need.

***Allowable Subject Matter***

5. Claim 24 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments filed 3/16/07 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on Monday - Thursday, 7am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a



Application/Control Number: 10/725,202

Page 8

Art Unit: 3782

USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JML

5/30/07

  
NATHAN J. NEWHOUSE  
SUPERVISORY PATENT EXAMINER